

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE NEW YORK POLICING DURING: Case No.: 20-cv-08924

SUMMER 2020 DEMONSTRATIONS :

: New York, New York

: April 19, 2023

-----: CONFERENCE

PROCEEDINGS BEFORE  
THE HONORABLE GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE

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The State of NY

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1 THE COURT: In the matter of In Re: New  
2 York Policing During Summer 2020 Demonstrations,  
3 Docket Number 20-cv-8924, starting with plaintiffs'  
4 counsel. Will the attorneys please state your name  
5 for the record?

6 MS. MARQUEZ: Good afternoon, Your Honor.  
7 This is Lillian Marquez, counsel for the people of  
8 the State of New York.

9 MR. STECKLOW: Good afternoon, Your Honor,  
10 Wylie Stecklow for the plaintiffs in the Gray v.  
11 City of New York matter.

12 MS. SALAMA: Good afternoon, Your Honor,  
13 Veronica Salama (inaudible). I'm from the New York  
14 Civil Liberties Union on behalf of the Phillips  
15 Plaintiff.

16 MR. ABOUSHI: Good afternoon, Your Honor,  
17 Ahmad Aboushi on behalf of the Roland plaintiffs.

18 MX. GREEN: And good afternoon. This is  
19 Remy Green on behalf of the Sow plaintiffs. For the  
20 reporter, I should appear in the transcript as MX  
21 Green, spelled MX period, rather than Mr. or Ms.  
22 And that's all on the plaintiffs' side.

23 THE COURT: And for defendants.

24 MR. HIRAOKA: This is Joseph Hiraoka,  
25 H-I-R-A-O-K-A for the New York City Law Department.

1 MS. NELSON: Genevieve Nelson, also from  
2 the New York City Law Department. Good afternoon.

3 MS. WENG: Jenny Weng, also from the New  
4 York City Law Department. Good afternoon, Your  
5 Honor.

6 MS. FITZPATRICK: Bridget Fitzpatrick from  
7 the New York City Police Department. Good  
8 afternoon.

9 THE COURT: Okay. Thank you, everyone.  
10 Sorry for the delay. We had a very unusual  
11 technical problem with our public line, but I  
12 understand it's working now. So we -- just so the  
13 record is clear we put up a new dial-in number.

14 And obviously we're going to have a  
15 transcript available in case, as I'm sure will be  
16 ordered. Obviously any rebroadcast of this  
17 proceeding is strictly prohibited by court rule or  
18 any other dissemination.

19 We're here today based on a letter docket  
20 924, and I have a responsive letter 939. I think I  
21 need -- we need to do this sort of in two parts. I  
22 know it's a long and complicated process to get  
23 where we are but -- and maybe Mr. Hiraoka can cut it  
24 short, but it seems like there is a dispute about  
25 whether even if there was apparently an agreement by

1 the City that they had produced the individuals on  
2 Exhibits A and B, I think they're disputing that  
3 they were obligated to produce it.

4 But maybe you can clear -- I'm just -- I'm  
5 trying to figure out if that's what the City's  
6 position is on this. Because if they're disputing  
7 that, then I'm going to have to figure that out.  
8 And if they're not disputing it, then we can cut  
9 some of it short, I think.

10 MR. HIRAOKA: Right, Your Honor. Well,  
11 just briefly, with respect to the procedure of this  
12 case, this issue really came up when the plaintiffs  
13 had demanded the -- certain IAB files for an Officer  
14 Fiorenza.

15 And they had said that we were required to  
16 produce those files pursuant to the order at ECF839.  
17 And at ECF839 that was an order that required us to  
18 produce certain IAB files that were located, that  
19 were related to these things called ArcGIS Maps that  
20 the plaintiffs' attorneys had provided.

21 Now, when we got that order, the attorney  
22 who that email was directed to informed the  
23 plaintiffs that we were not obligated to produce  
24 those two files for Officer Fiorenza pursuant to  
25 that ECF order. But we will be producing those

1 files. All right. And we were able to produce  
2 portions of those files before --

3 THE COURT: I think -- Mr. Hiraoka, I think  
4 we're not answering this the way I wanted to. I  
5 think it's better -- I think you are disputing it.  
6 So I think it's better if I -- if I -- I mean, the  
7 -- the plaintiffs say that all of -- none of this  
8 matters. You were supposed to produce all of the  
9 IAB files for the individuals listed in Exhibit A  
10 and B. So I just need a yes or no. Do you --

11 MR. HIRAOKA: Yes.

12 THE COURT: -- agree that's the case?

13 MR. HIRAOKA: Yes. And we -- and we --

14 THE COURT: And on what date -- hold on.  
15 Hold on. Mr. Hiraoka, you got to answer my  
16 questions. Don't answer a question I haven't asked.  
17 At what point did you have that obligation? What  
18 date?

19 MR. HIRAOKA: I can't specify the exact  
20 date, Your Honor, but I know that there was a point  
21 in time, sometime in 2021, where we were ordered to  
22 produce the IAB files for the individuals listed on  
23 Exhibits A and B.

24 THE COURT: Okay. 2021 is far earlier than  
25 I expected. I would have taken 2022. Okay. So

1       sometime before this year you were obligated to  
2       produce all the people in A and B.

3               So now turning to Ms. Marquez. It seemed  
4       like a lot of your letter was addressing the  
5       question of whether they were, in fact, obligated.  
6       So it seems like we've made a good deal of progress  
7       in terms of clearing out that underbrush. Am I  
8       missing something?

9               MS. MARQUEZ: No, Your Honor. That was a  
10       hurdle we had to overcome in the meet and confer, it  
11       seems. But, yes, I think Exhibit A and B is one  
12       portion of the iceberg in --

13              THE COURT: Okay. So -- right. Maybe --

14              MS. MARQUEZ: Yes.

15              THE COURT: -- we -- maybe I'm not  
16       understanding everything. So I could tell that  
17       Exhibit A and B was a big deal. Are there -- what  
18       else -- and if I need to do it today, then I'm going  
19       to have to figure this out. But I wasn't able to  
20       figure it out from the letters.

21              What else -- what other requests or  
22       whatever do we need to figure out, the City was  
23       obligated to produce IAB files under and what date  
24       was that, and is that being disputed? So I'm going  
25       to ask Ms. Marquez for you to address that.

1 MS. MARQUEZ: Sure. And apologies, it  
2 wasn't too clear. And I think A and B became the  
3 focus point because of these -- how the Dim and  
4 Fiorenza files were sort of the opening in terms of  
5 insight that this is not a complete production.

6 So the three buckets or maybe RFPs, that  
7 pertain to IAB files -- and when I say IAB files, I  
8 mean, just near NYPD's internal investigation  
9 files -- the first request was the broadest. It was  
10 from our consolidated requests back in March. I  
11 think it was 2021. And then a separate, largely  
12 overlapping request that came from the People's own  
13 follow-up request when we were not getting files  
14 pertaining to our witnesses. Again in 2021 --

15 THE COURT: Okay. Unfortunately, I'm going  
16 to have to do this by looking at these things one by  
17 one. Because I gather it's relevant as to who  
18 precisely they were supposed to produce IAB files.  
19 So in your -- you referred to, you know, one of your  
20 original requests I guess from 2021 as the start of  
21 all this?

22 MS. MARQUEZ: Right. So those were -- so  
23 in our -- in ECF924 letter we referenced requests  
24 14, 15, 16, and 17. And if we were to focus on  
25 that, even to Your Honor's earlier point, it really



1 doesn't matter in terms of individuals they pertain  
2 to. Because it really -- it just asks for all  
3 protest-related investigations.

4 THE COURT: Right. So I'm trying to figure  
5 out because it's important to you for your relief  
6 you're requesting. I mean, there's two ways to do  
7 this. One is to just solve the problem, and the  
8 other is to deal with your, you know, sanctions  
9 request. To deal with your sanctions request, I  
10 have to put all this together. So 14, 15, 16, 17,  
11 does not contain a list of names, right?

12 MS. MARQUEZ: Correct.

13 THE COURT: Okay. So the theory was, and I  
14 don't recall the wording offhand. I know it's  
15 referred to in your letter. Is it appended to your  
16 letter? I need to look at 193 in order to get to  
17 it.

18 MS. MARQUEZ: I apologize. Yes. It'd be  
19 193, and I'm pulling it up now, 193-1.

20 THE COURT: Okay. Hold on. Okay. I have  
21 193-1. I'm going to 14. Right. So you're just  
22 talking about incidents at the protest locations.  
23 That's what we're talking about.

24 MS. MARQUEZ: Yes.

25 THE COURT: Okay. So do you feel this

1 covers the entire universe?

2 MS. MARQUEZ: Yes, it should - -

3 THE COURT: I know -- I know we're going to  
4 get to some subsequent history. But does this cover  
5 the entire universe, Exhibit A, Exhibit B, as it  
6 were, at least those incidents --

7 MS. MARQUEZ: Yes.

8 THE COURT: -- plus some other things?  
9 Okay.

10 MS. MARQUEZ: Yes. Yes.

11 THE COURT: All right. So and this is --  
12 let's just look at the date on this.

13 MS. MARQUEZ: I guess the only thing I'll  
14 add --

15 THE COURT: March 25th.

16 MS. MARQUEZ: Yes.

17 THE COURT: Yep. Go ahead.

18 MS. MARQUEZ: Yes. And the only thing I'll  
19 add is really the request subsequent to this.  
20 Perhaps refer -- again referred to individuals but  
21 also was more precise in the documents that we were  
22 asking for. Because as we've learned throughout the  
23 case specific documents, we added those to the  
24 request. That is more specific as we go to the, you  
25 know, future RFPs. That's the only distinction.

1 But this should be the universe of --

2 THE COURT: Okay.

3 MS. MARQUEZ: -- files.

4 THE COURT: So this is sort of universe of  
5 all incidents at the protest?

6 MS. MARQUEZ: Yes.

7 THE COURT: All right. And then -- and --  
8 but what -- the word you use that covers IAB reports  
9 is the discipline or something or investigation or  
10 under investigation by the IAB? Yeah. Okay.

11 MS. MARQUEZ: Yes. I'm trying to --

12 THE COURT: 14 is the IAB one.

13 MS. MARQUEZ: Yes. And then I think the  
14 other ones are just different aspects. So if any  
15 officer is under investigation are receiving  
16 discipline for misconduct, that would kind of be  
17 overlapping as well, if you look at 17, for  
18 instance.

19 THE COURT: Recommended to receive  
20 discipline. Yeah.

21 MS. MARQUEZ: So that should capture the  
22 investigations, too. Because that would be the  
23 preliminary part of the disciplinary proceeding --  
24 you know, process.

25 THE COURT: Right. Well, if we're going to

1 get technical, I'm not sure if someone has not  
2 received discipline or recommended to receive  
3 discipline, whether it comes within this request.

4 MS. MARQUEZ: Understood. It would --  
5 yeah. That would be for those who -- for instance,  
6 we have another separate order for department  
7 advocate office records, but that would be this  
8 universe.

9 THE COURT: But, I mean, 14, it seems  
10 broader anyway.

11 MS. MARQUEZ: Right. So I'm just -- I'm  
12 trying to locate everywhere in these various  
13 requests 14, 15 --

14 THE COURT: Right.

15 MS. MARQUEZ: -- 16, 17 --

16 THE COURT: Okay. So --

17 MS. MARQUEZ: -- that could touch on IAB  
18 records.

19 THE COURT: -- 14 in your view covers  
20 everything you're looking for right now?

21 MS. MARQUEZ: Yes.

22 THE COURT: Okay. Let's just keep going  
23 just in case it comes up and tell me what further  
24 requests cover, if there are any, that cover what  
25 we're talking about.

1 MS. MARQUEZ: So we also asked for IAB  
2 records in our December request, and I believe I  
3 appended that as Exhibit A. And, again, this was  
4 because we were not receiving any specific documents  
5 regarding the AG's case, the witnesses we had. And  
6 then again we propounded requests in August where --  
7 and that's where the Exhibits A and B come in.

8 THE COURT: Okay. So Exhibits A and B in  
9 your view are -- well, I'm not sure what B is. But  
10 Exhibit A is a formal request, and it lists specific  
11 people, and it asks for their IAB files.

12 MS. MARQUEZ: Correct.

13 THE COURT: What made you pick out those  
14 people?

15 MS. MARQUEZ: Because those are the ones  
16 we've been able to identify with respect to the  
17 witnesses who we identify in our amended complaint.

18 THE COURT: Okay. And the list of names  
19 are officers or victims or alleged victims?

20 MS. MARQUEZ: I believe those were officers  
21 and then --

22 THE COURT: Officers. Okay.

23 MS. MARQUEZ: I'm just double-checking. So  
24 -- excuse me, Exhibit A is the list of officers who  
25 are subject to generally to discipline relating to

1 protest cases that were being brought by the CCRB.  
2 And B is the one that pertains to the officers who  
3 we were able to identify as having some role in  
4 incidents with our witnesses.

5 THE COURT: Well, I mean, Request 17 in  
6 Exhibit A refers to the IAB, not the CCRB.

7 MS. MARQUEZ: I'm sorry. I've moved onto  
8 the August 2022 RFP that -- and that's Exhibit A and  
9 B that we have been referring to at the top of the  
10 call.

11 THE COURT: Okay. Hold on. Hold on. Hold  
12 on. Are there two Exhibits A and B? Is that my  
13 problem?

14 MS. MARQUEZ: I'm sorry. I'm confusing  
15 you. There is an Exhibit A to the filing in the  
16 ECF, but then there's an Exhibit A and B that we've  
17 referenced as part of our third supplemental  
18 request. And so my apologies if I was --

19 THE COURT: Okay. I think --

20 MS. MARQUEZ: -- misunderstanding which --

21 THE COURT: Because I think I may have  
22 conflated Exhibits A and B, not been understanding.  
23 We --

24 MS. MARQUEZ: Okay.

25 THE COURT: -- we don't have to go back all

1 the way to March of 2021, but we have to talk  
2 about --

3 MS. MARQUEZ: Okay.

4 THE COURT: -- what the next thing is and  
5 make sure I'm looking at the right things.

6 MS. MARQUEZ: Okay. So in terms of --

7 THE COURT: Tell me what to look at.

8 MS. MARQUEZ: -- in terms of what I've  
9 appended to the 924, so if you're looking at 924-1,  
10 I guess is what you --

11 THE COURT: Yes. Yes.

12 MS. MARQUEZ: -- were trying to -- were  
13 referring to. I believe that was our second or --  
14 or the People's supplemental for supplemental  
15 requests. Is that -- is that what you have --

16 THE COURT: Okay. That -- that --

17 MS. MARQUEZ: -- in front of you?

18 THE COURT: And that's -- and that's dated  
19 in December.

20 MS. MARQUEZ: Correct, yes.

21 THE COURT: All right. Of 2021?

22 MS. MARQUEZ: Yes.

23 THE COURT: And that contains a number of  
24 names in 17, for example, where we're looking for  
25 IAB files of these people.

1 MS. MARQUEZ: Right. And the -- what  
2 happened there was after we thought that there was  
3 incomplete production, we had a conferral process.  
4 Counsel suggested that we had not sufficiently asked  
5 for IAB files for entire incidents wherein an  
6 officer could not be identified.

7 So, in other words, they said that they had  
8 limitations to their search criteria, and because we  
9 had not sufficiently broadly worded our requests,  
10 they did not search for all IAB files pertaining to  
11 those incidents. And so to avoid confusion and to  
12 try to get these files, we propounded yet another  
13 set of file -- of requests.

14 THE COURT: Which is the December 2021  
15 request?

16 MS. MARQUEZ: Sorry, no. Which is the  
17 third supplemental request.

18 THE COURT: Okay. Sorry. You lost me  
19 again.

20 MS. MARQUEZ: Okay.

21 THE COURT: I thought we were still talking  
22 about the December 2021 one. So you can explain to  
23 me why -- what made you do that and who those people  
24 are.

25 MS. MARQUEZ: Right. Okay. Sorry. So the



1 December 2021 was because we didn't get anything  
2 regarding our witnesses. And so for instance -- let  
3 me try to find a for instance for you. Quafner  
4 Benwaur (phonetic) in request number 17 so it --  
5 the -- I'm referring to 924-1.

6 THE COURT: Yes.

7 MS. MARQUEZ: Okay. Quafner Benwaur, We  
8 did not receive anything regarding him, yet we had a  
9 -- we had a number known about him. Ms. Lillevoy,  
10 we didn't receive anything about. And so we tried  
11 to be as precise --

12 THE COURT: These are -- these are alleged  
13 victims, right?

14 MS. MARQUEZ: Correct. That's for 17. So  
15 we just -- we just tried to draw attention to -- you  
16 know, defendant's attention to the fact that we were  
17 being sort of treated apart. They were only  
18 producing --

19 THE COURT: Wait, treated apart? I'm  
20 sorry. Why --

21 MS. MARQUEZ: They were only producing --  
22 they were only producing files that related to named  
23 defendants or named plaintiffs. And since our case,  
24 of course, is representing the People of the State  
25 of New York, we didn't have specific plaintiffs

1 other than The People.

2 And so we drafted these December requests  
3 to list out. Although they were, you know, named by  
4 name in our amended complaint to precisely ask for  
5 these documents all the while explaining that we  
6 understood -- this had been already asked for in the  
7 original requests, the consolidated requests, but --

8 THE COURT: Right.

9 MS. MARQUEZ: -- to just move everything  
10 along.

11 THE COURT: Right.

12 MS. MARQUEZ: You know, we tried to --

13 THE COURT: Okay. Okay.

14 MS. MARQUEZ: -- force the issue,  
15 essentially, with these --

16 HE COURT: Okay.

17 MS. MARQUEZ: -- December requests.

18 THE COURT: All right. So continuing on  
19 the theme of me asking you to point to each request  
20 that encompasses what you're seeking today, that's  
21 the second thing after the March 2021 one --

22 MS. MARQUEZ: Yes.

23 HE COURT: -- exhibit -- you know, one -- I  
24 believe -- I think it was 913-1. And now we have  
25 924-1.

1 MS. MARQUEZ: Yeas.

2 HE COURT: So should we now go forward to  
3 the next thing?

4 MS. MARQUEZ: And so the next thing is the  
5 third --

6 THE COURT: I'm sorry. By the way I  
7 misspoke. It's not 913. It's 193-1. Okay. So  
8 we're going to go to the next thing.

9 MS. MARQUEZ: Okay. And so you have -- so  
10 from that 924-1, you already saw the request 17, 18.  
11 And so the next -- so as I mentioned briefly, there  
12 is a conferral process. They wanted us to  
13 re-propound the request that we thought we had  
14 already done now two times, and we did it a third  
15 time in August. And so those are the -- that's the  
16 third supplemental request that I was talking  
17 about --

18 THE COURT: Okay. Tell me where to find  
19 it.

20 MS. MARQUEZ: And that's ECF814-1.

21 THE COURT: Okay. I have 814 in front of  
22 me, 814-1, which happens to be an Exhibit A, and  
23 that is dated August 19th, 2022. Okay. So this  
24 has, you know, a list of names, but it also has a  
25 general request in request one.

1 MS. MARQUEZ: Yes. I'm just trying to go  
2 up to it. Yes.

3 THE COURT: Except that's not IAB.

4 MS. MARQUEZ: Sorry. That is -- it's going  
5 to be request two.

6 THE COURT: Request two. Okay. Request  
7 two is generic. And is request three a subset or --  
8 or what is request -- well, request three is not  
9 IAB. So it's really request two.

10 MS. MARQUEZ: Actually request -- so IAB  
11 being part of NYPD would fall under request three as  
12 well. And so the request three was supposed to  
13 capture sort of one of the issues that was raised by  
14 counsel in prior conferrals saying, we can't search  
15 for officers whose name we do not know. And so the  
16 aim of this was to be able to search locations. And  
17 so request three was trying to cover that base.

18 THE COURT: Okay. But request three is  
19 names or not? I'm not following you. Just give me  
20 that again.

21 MS. MARQUEZ: Sure. So the objection by  
22 counsel to the -- that second layer of request in  
23 December was that we were asking about -- we didn't  
24 sufficiently ask for IAB records that pertain to  
25 locations, where we maybe had the victim's name but

1 not an officer-involved name. And so --

2 THE COURT: Okay.

3 MS. MARQUEZ: -- this request three  
4 specifically asked for them to look for anything  
5 that came from a certain location, and we added the  
6 names of the victims as well just for context.

7 THE COURT: You have a location and a date  
8 it looks like.

9 MS. MARQUEZ: A location date and like --  
10 so for request 3A Luke Hanna (phonetic) was a victim  
11 at that location and date.

12 THE COURT: Okay.

13 MS. MARQUEZ: And so we were try -- you  
14 know, we kept trying to bend over backwards to ask  
15 it in every which way we could to get at these  
16 files.

17 THE COURT: Right. Okay. Are we kind of  
18 -- is this the end of the written request or is  
19 there more?

20 MS. MARQUEZ: No. That's it.

21 THE COURT: That's it. So when we've been  
22 talking about Exhibit A and B, what are you -- what  
23 have you been referring to?

24 MS. MARQUEZ: It's -- is the one where we  
25 specifically reference --

1 THE COURT: No, no. But give me -- give me  
2 an actual docket number page so I know --

3 MS. MARQUEZ: Yes. So it's 814-1, the one  
4 we've just been focusing on right now and --

5 THE COURT: It's Exhibit A?

6 MS. MARQUEZ: Correct. Exhibit A. So  
7 there's an Exhibit A and B to those requests. So if  
8 you scroll down to pages --

9 THE COURT: I see. It's the Exhibit A --

10 MS. MARQUEZ: -- 19 -- yes. I apologize  
11 for -- yeah.

12 THE COURT: That's okay. So that's the  
13 Amended Schedule A. Is that what we're talking  
14 about? You're calling it Exhibit A? Is it Amended  
15 Schedule A or something else? Oh, no. There's an  
16 Exhibit A after that. No. Exhibit A is something  
17 completely different.

18 MS. MARQUEZ: I'll just refer to it as the  
19 CCRB Data Snapshot, and that has a list of officers  
20 that were at that time recommended for certain  
21 disciplinary action. So we have --

22 THE COURT: So did you compile this or did  
23 they compile --

24 MS. MARQUEZ: That's them. That's the  
25 CCRB. And the one that I compiled is the following

1 exhibit that simply has -- yes. And that's page 26  
2 on Docket Number 814-1, where it has the officer  
3 name and tax ID.

4 THE COURT: Okay. Hold on a second. Hold  
5 on a second.

6 MS. MARQUEZ: Yes.

7 THE COURT: Okay. I think I was very  
8 thrown off by the exhibits. Okay. So you've  
9 annexed what we're now calling Exhibit A and B,  
10 pages 19 through 27 of 814. You annexed that to  
11 your document request of August 19th, 2022; is that  
12 right?

13 MS. MARQUEZ: Correct. And so some of  
14 those requests for the IAB logs referenced the  
15 officers who were listed here just for --

16 THE COURT: Okay.

17 MS. MARQUEZ: -- not only do we want it for  
18 these specific people, but we want it for all.

19 THE COURT: Right. Okay. So -- all right.  
20 Any more written requests?

21 MS. MARQUEZ: That's it.

22 THE COURT: Okay. So bringing -- and I'm  
23 going to hear obviously from others, but other than  
24 looking through the names listed in what we're now  
25 calling Exhibit A and B, which is Docket 814, pages

1 19 through 27, what is it you feel that they should  
2 have done, other than looking through those names?

3 MS. MARQUEZ: And I just want to make clear  
4 that for the meet and confers in our request for  
5 audit, I took a step back, and just on behalf of all  
6 the cases I -- we were trying to assert that it's  
7 not just the People's supplemental requests that  
8 were at issue but also these first general requests  
9 for protest-related investigations.

10 And so the understanding would be not only  
11 would these -- you know, the Exhibits A and B that  
12 we were talking about be an issue, but also named  
13 defendants, deponents, any protest-related case.

14 And so to answer your question, we would  
15 expect -- or have expected that they would search  
16 for all those protest investigations, and we had  
17 just -- have just opposed the 30(b)(6) for the  
18 IAB -- for the IAB, the Internal Affairs Bureau.  
19 She testified that very early on in the protest as  
20 soon as I believe late May, early June, and they  
21 started May 28th, they -- the Central Command, which  
22 is the only place where an IAB log or case can be  
23 created, was required to tag all protest-related  
24 cases that IAB created with the terms protest -- I  
25 just want to say it correctly -- I think it was



1 protest case. And so she testified that all they  
2 would need to do to find those is to do term search  
3 for -- with the, you know, quote, unquote, protest  
4 case, and we'd be able to pull those up. So that  
5 would be --

6 THE COURT: Okay. Well, that -- that --

7 MS. MARQUEZ: Yeah. That would be the --  
8 the first step we would presume. But beyond that,  
9 defendants have represented that they can search.  
10 And this testimony also confirmed they can search by  
11 officer name, complainant name and location.

12 And so we would have expected, and we  
13 thought they did do this, that they searched by  
14 plaintiff name, by witness name that we supplied,  
15 meaning the AG's office, by officer names that we've  
16 been supplying, you know, deponent names, and the  
17 Scheduled A, which has all the protest locations.

18 THE COURT: Okay. All right. Did that  
19 pretty much cover what you asked them to -- what you  
20 -- you think they should have done to comply with  
21 it?

22 MS. MARQUEZ: I believe those are all the  
23 -- the search criteria that we believe they both  
24 have the capability and the responsibility to have  
25 searched. Yes.

1           THE COURT: From your point of view have  
2 you been informed of what exactly they've done to  
3 comply with these?

4           MS. MARQUEZ: We thought they searched for  
5 all those. And that is where Ms. Ibrahim's  
6 confirmation comes from. She confirmed last year in  
7 September that all the names had been run. You  
8 know, Schedule A had been run --

9           THE COURT: When you say Schedule A, you  
10 mean Exhibit A, page 19 through 27, or whatever it  
11 is, when you say that?

12          MS. MARQUEZ: I'm sorry. This is again  
13 confusing, the terminology. There was -- to the  
14 first consolidated request there was a -- I'll call  
15 it a Master Schedule A that included all of the  
16 protest locations as plaintiffs knew it --

17          THE COURT: It was a list of protest  
18 locations.

19          MS. MARQUEZ: Right. And --

20          THE COURT: Okay. Got it.

21          MS. MARQUEZ: It was ultimately amended to,  
22 you know, include some of the new cases that joined.  
23 But ultimately, you know, that was like about 83  
24 protest locations and dates --

25          THE COURT: Right.

1 MS. MARQUEZ: -- that we --

2 THE COURT: Right.

3 MS. MARQUEZ: -- that we were part of the  
4 first request, check here first, and then check with  
5 individual names to cover your bases.

6 THE COURT: Okay. And you had been led to  
7 believe they looked for those locations?

8 MS. MARQUEZ: Right. And so Ms. Ibrahim  
9 said in no uncertain terms and she -- and I did  
10 append that to this letter as the second exhibit  
11 that she said in no uncertain terms that they had  
12 been produced -- that the Exhibit A and B had been  
13 produced.

14 But she had also represented in that and in  
15 prior conferrals that, you know, they had searched  
16 for Schedule A. They had searched for the names  
17 that we did have up to then. So we were under the  
18 impression they had run those search criteria. The  
19 protest case tag I was unaware of until last  
20 Thursday, which is --

21 THE COURT: Okay.

22 MS. MARQUEZ: -- when we deposed the  
23 30(b)(6).

24 THE COURT: Okay. So I think I want to  
25 turn to defendants. And I guess the question is --

1 the larger question I guess is what have you done to  
2 search for these things specifically? And are  
3 there -- I mean, I guess -- I think like that's  
4 going to take us a long way to finding out where we  
5 are.

6 So, Mr. Hiraoka, I don't know if it's you  
7 or someone else. I know Ms. Fitzpatrick is on the  
8 line. But I think we need the detail about what  
9 searches were conducted in relation to, you know,  
10 certainly the Exhibit A and Exhibit B list that  
11 we've talked about and the names in -- in the  
12 December 2021 requests and the protest case tag. So  
13 go ahead and tell us.

14 MR. HIRAOKA: Okay. So basically, yeah.  
15 Yes. Ms. Fitzpatrick is on the line with me. She I  
16 think will be able to explain the more technical  
17 terms of it. But basically, you know, as with any  
18 sort of discovery, we get the discovery demands. We  
19 contact the appropriate person who would have access  
20 to that information, make the request.

21 The search is conducted, which Ms.  
22 Fitzpatrick could probably explain far better than  
23 I, and then they produce whatever they find in  
24 response to -- in response to whatever discovery  
25 demands that they were provided with. We get them.

1 We review them to make sure that there's, you know,  
2 no privileged information and so forth, and then we  
3 provide them. As to how that went about, I could  
4 just turn it over to Ms. Fitzpatrick for her to  
5 explain the technical procedures that's followed.

6 I just want to inform the Court right now  
7 is at the outset is that it's not a simple matter of  
8 you just pressing a button and having everything  
9 come up. You can't just press protest-related cases  
10 or officer so-and-so for protest-related cases, and  
11 everything just comes up all in one shot.

12 With respect to the 30(b)(6) witness that  
13 Ms. Marquez was referring to, she said she was just  
14 deposed last Thursday. I was not at that particular  
15 deposition. So I'm not sure of the full context of  
16 what she may have testified to as to how the search  
17 is made.

18 I don't know what her specific position is,  
19 but Ms. Fitzpatrick here is the person on whom we  
20 rely to do the appropriate searches and so forth.  
21 And I'll just hand it over to her temporarily, just  
22 so she can kind of briefly explain to you how it's  
23 done -- how a search is done once we get a discovery  
24 demand, in this case for IAB files.

25 THE COURT: Okay. That's not my question

1 at this point. My question is not how is a search  
2 done. My question is what specific searches were  
3 done to comply with the discovery request? I'm  
4 happy to have --

5 MR. HIRAOKA: Well --

6 THE COURT: I'm happy to have Ms.  
7 Fitzpatrick answer it, but I'm not at this point  
8 interested in knowing how they do searches in a  
9 generic matter.

10 MR. HIRAOKA: Well, as I said, Your Honor,  
11 is that, you know, as to what was done, we do  
12 everything we can do once we get the discovery  
13 demand and, you know, subject to any objections that  
14 we may have asserted, then we hand it off to our --  
15 to the particular person who would be qualified to  
16 find those documents. And once that's done, you  
17 know, we wait for the search to be completed, and we  
18 wait for the documents.

19 THE COURT: Okay. I'm not sure if you're  
20 disagreeing with me or you're repeating -- why -- do  
21 I need to repeat what I said again?

22 MR. HIRAOKA: Well, no. I mean, and as for  
23 that, you know -- I mean, as you know I -- you know,  
24 I was not here all the way back in September of  
25 2021.

1           THE COURT: I'm happy to have Ms.  
2           Fitzpatrick answer it. I just need someone to  
3           answer it. So if she's going to answer it, that's  
4           absolutely fine. I have no problem with that. Ms.  
5           Fitzpatrick, you can hear us?

6           MS. FITZPATRICK: Yes, Your Honor. I'm  
7           here. I can hear you.

8           THE COURT: Okay. All right. So I think  
9           you heard what I said. I'm trying to figure out  
10          what you were asked to find and, you know, did  
11          you -- you know, did you look for those specific  
12          names that are on, you know, 814? Did you look by  
13          locations? Did you look up the -- ever use this  
14          protest case tag? So I -- you know, we really need  
15          you to take us through it. So that'd be great if  
16          you can do that.

17          MS. FITZPATRICK: Okay, Your Honor.  
18          Basically how it works is I run the civil litigation  
19          unit, which supplies litigation support to the New  
20          York City Law Department. And in the normal course,  
21          we receive requests from attorneys from the law  
22          department, you know, asking us for search -- to  
23          search for certain things.

24          These searches that were done, they weren't  
25          done altogether simultaneously. The requests came

1 in piecemeal based upon conversations that I  
2 understood took place so that plaintiff's counsel  
3 could understand the limitations of the system, the  
4 IAB database.

5 So I do know that we received maps, and we  
6 were asked to search those maps for particular logs  
7 related to protest activity in those particular  
8 geographical locations. I was very intimately  
9 involved in that search. So that was done. With  
10 regards to the list that we received that --

11 THE COURT: Okay. But we'll -- since you  
12 were doing it a piece at a time a little bit. You  
13 got the maps. I think I remember this. And you  
14 looked up locations, and you looked up IAB incidents  
15 at that location. And did you come up with things?

16 MS. FITZPATRICK: Yes. Just so you  
17 understand, Your Honor, the systems are -- the  
18 search functionality -- the search functionality is  
19 very limited in the IAB database.

20 So from the maps we actually had to discern  
21 the particular precinct that covered that  
22 geographical location that was designated on the  
23 map, and that's how the search was conducted. And  
24 then we went in --

25 THE COURT: Okay.



1 MS. FITZPATRICK: -- and we looked for  
2 particular allegations, and then we looked at those  
3 particular allegations, and we narrowed it down by  
4 reading them to see if they were related to  
5 protests.

6 THE COURT: Got it. Okay. So -- all  
7 right. So I stopped you with the mask. Anything  
8 else you did to search for the things we're talking  
9 about?

10 MS. FITZPATRICK: Well, over time  
11 throughout the pendency of the litigation, Your  
12 Honor, as I said we've received different types of  
13 requests from the law department with varying  
14 degrees of information. If we have -- we have  
15 received requests that speak to particular IAB log  
16 numbers and IAB case numbers. So we've searched  
17 that way. We --

18 THE COURT: But can you -- are you able --  
19 are you able -- do you have the documents that we're  
20 talking about? Do you have access to them? You  
21 know, for example, Exhibit 814 which has what we've  
22 been calling Exhibit A and B --

23 MS. FITZPATRICK: I don't have them in  
24 front of me, Your Honor, but I'm familiar with  
25 what's being referred to. Because in my --

1 THE COURT: But did you --

2 MS. FITZPATRICK: -- capacity I've reviewed  
3 them all.

4 THE COURT: Okay. Did you -- I mean, I  
5 don't want to -- I just want to know specifically if  
6 you went through the names in Exhibit A and B and  
7 the other things and tried to find IAB files for  
8 those?

9 MS. FITZPATRICK: So yes. Basically just  
10 so we're clear, Your Honor, my access to the  
11 database, the IAB database, is limited to police  
12 officers' tax numbers. So I have to request the  
13 searches be done by IAB record officers in IAB.

14 So we take whatever is requested, and we  
15 basically cut and paste the request as it comes to  
16 us. We send it in a communication to the chief of  
17 IAB, and then they designate someone to conduct the  
18 search, and they'll conduct the search based upon  
19 the information we provide to them.

20 If the information that we have provided to  
21 IAB is insufficient for what they need for their  
22 database, they'll reach back out to us and be like,  
23 we really need more to work with here. You know,  
24 and that happened on a few occasions, and when that  
25 did, we eventually were able to figure out some way

1 to get some information to them so that they could  
2 do a search to locate, you know, what the plaintiffs  
3 were looking for, which is protest-related cases.

4 THE COURT: Well, there must be some other  
5 database, because you're saying they can only search  
6 the IAB database by police officer tax number?

7 MS. FITZPATRICK: No, Your Honor. Only I  
8 can search. The IAB database has different levels  
9 of access depending upon where you work in the  
10 department.

11 THE COURT: Right.

12 MS. FITZPATRICK: Because IAB obviously has  
13 security concerns given to the sensitive nature of  
14 some of the investigations that they deal with.  
15 Therefore, they have to be very careful about the  
16 type of access that they allow people to have to  
17 particular databases.

18 So for my purposes I can input an officer's  
19 tax number. I can pull up what's called an IAB  
20 resume. On that IAB resume, I can see a brief  
21 summary of the allegations, who investigated it, and  
22 then I'm allowed -- and then I can go into that  
23 brief summary and get a little bit more information  
24 about what happened, which is generally how we  
25 figure out where our requests should go with regards

1 to who investigated the case.

2 THE COURT: Okay. You need a name to look  
3 something up, but other people can look you -- I  
4 don't understand how you were able to do anything  
5 with a location.

6 MS. FITZPATRICK: I worked with the IAB  
7 records officer. We sent a request to them. We  
8 sent the maps to them, and then we had conversations  
9 about the best way for us to locate the information  
10 that we were looking for based upon the information  
11 that we provided --

12 THE COURT: I see. So the -- this other  
13 person could use the precinct to do a search in the  
14 IAB system?

15 MS. FITZPATRICK: Correct.

16 THE COURT: Okay. I think -- I wasn't  
17 following what you were saying. Okay. So the  
18 answer to my question about Exhibit A and B is that  
19 a search was done for each of those entries; is that  
20 right?

21 MS. FITZPATRICK: Correct.

22 THE COURT: Okay.

23 MS. MARQUEZ: Your Honor, I'm not -- if --  
24 if I may just chime in --

25 THE COURT: Yes.

1 MS. MARQUEZ: -- here. Because I am a  
2 bit --

3 THE COURT: Sure.

4 MS. MARQUEZ: -- confused on a point that  
5 Ms. Fitzpatrick is making, that this is the first  
6 I'm heard -- hearing about, is that they restricted  
7 their search to certain maps. So if those maps are  
8 referencing ArcGIS Maps, we, plaintiffs, as a part  
9 of a conferral process created maps to prioritize  
10 defendant search only of ArcGIS video, because of an  
11 argument that there was a burden to producing those.

12 We never intended that to provide a  
13 prioritization or limitation on the search for IAB  
14 records. And the fact that defendants may have been  
15 doing so is the news to us at this moment. So I'm  
16 not sure if that's what Ms. Fitzpatrick is  
17 referencing, but those ArcGIS Maps certainly are not  
18 the universe of the Schedule A protests that I  
19 mentioned to you earlier or, you know, all the other  
20 requests. It is much more limited. Because there  
21 was a, you know, a dispute as to what was burdensome  
22 to produce in terms of ArcGIS videos.

23 MS. FITZPATRICK: I was using that as an  
24 example, Your Honor, of one of the types of requests  
25 that we received. That was not the full universe of

1       what we searched for.

2               THE COURT: I mean, you know about the  
3       Schedule A protest location, I assume, right, Ms.  
4       Fitzpatrick?

5               MS. FITZPATRICK: Yes, Your Honor, we do.

6               THE COURT: Okay. So has there been an  
7       effort to go through each of those on those dates to  
8       see if there's any discipline associated with those  
9       in the IAB system?

10              MS. FITZPATRICK: The problem with going  
11       through the dates, and this is something that was  
12       explained to plaintiffs' counsel in several meet and  
13       confers, is that the way the system is designed to  
14       search, you have to use a specific geographical  
15       location or a specific building number in addition  
16       to a specific date of incident in order to be able  
17       to search for IAB files and then --

18              THE COURT: Okay.

19              MS. FITZPATRICK: -- you'd have to also --  
20       basically, if I may, when you're searching in the  
21       IAB database, if you use particular types of  
22       searches, you also have to use other data points in  
23       order to be able to search.

24              So you can do a keyword search, as was  
25       referenced by Ms. Marquez, but you cannot do that

1 alone. There has to be other data points that have  
2 to be put into the search functionality in order to  
3 be able to produce documents. Additionally I know  
4 the --

5 THE COURT: Because --

6 MS. FITZPATRICK: I apologize, Your Honor.  
7 Go ahead.

8 THE COURT: No. Go ahead. Finish.

9 MS. FITZPATRICK: So I believe through meet  
10 and confers, and I know that I've explained this  
11 frequent several times, that the system is limited  
12 in its ability to search. And therefore, that's why  
13 we required more specificity in order to be able to  
14 find cases that are (inaudible).

15 To be able to search for something all  
16 protest related for every date on Schedule A, the  
17 system doesn't allow for that the way it's currently  
18 designed. We had to have more specificity dates,  
19 specific locations, intersection, building number,  
20 street. We -- you know, we were able to search by  
21 precinct if we had a geographical location, perhaps.  
22 And that's what we did.

23 THE COURT: Yeah. I guess I find it odd --  
24 I mean, I know this is all very recent, but I guess  
25 I find it odd that if you have a tag, you can't

1 search by the tag without having other data points  
2 and what the -- I mean, what are the other data  
3 points you have to have?

4 MS. FITZPATRICK: Date, location, you  
5 cannot search by keyword alone. I've tried it.  
6 I've asked them to try it, rather. You know, and  
7 they've told me repeatedly. I had a meeting  
8 actually with the Chief of IAB fairly recently  
9 regarding another request that the plaintiffs have  
10 regarding disciplinary files. So I'm very familiar  
11 with the system's capabilities.

12 Please bear in mind that this system wasn't  
13 designed for this level of discovery. The system is  
14 designed specifically to be used by IAB to  
15 memorialize investigations, and that's its main  
16 function.

17 THE COURT: Right. So, Ms. Marquez, I'm  
18 just trying to think how we do this.

19 MS. MARQUEZ: And --

20 THE COURT: Go ahead.

21 MS. MARQUEZ: I'll just note and, you know,  
22 I obviously don't have the ability to test either  
23 out, but the 30(b)(6) witness stated that in  
24 response to my question, you would simply put  
25 protest case, and it could pull up these cases.



1           She said, yes, if it's in quotes. And even  
2           if there was another data point in terms of a date  
3           to look for that has been provided time and time  
4           again. So it's not clear to me that this tag  
5           protest case has been searched still. But I'm happy  
6           to answer any questions to try to work out next  
7           steps.

8           THE COURT: Well, you know, I --

9           MS. FITZPATRICK: Your Honor, I'm sorry.

10          THE COURT: Go ahead.

11          MS. FITZPATRICK: I'm aware of the fact --

12          THE COURT: What's the name of the 30(b)(6)  
13          witness so we're not -- it's not a mystery --

14          MS. MARQUEZ: It's Captain Lauren Foster,  
15          F-O-S-T-E-R. Okay.

16          THE COURT: Go ahead, Ms. Fitzpatrick.

17          MS. FITZPATRICK: The only other thing that  
18          I can say to that, Your Honor, is that it would only  
19          work if the people who actually inputted the  
20          information from the command center put in that  
21          code. So there's that limitation --

22          THE COURT: I didn't understand what you're  
23          saying --

24          MS. FITZPATRICK: What I guess what I'm  
25          trying to say, Your Honor, is that databases are

1       only as good as the people that enter the  
2       information. So, you know, in the keyword  
3       searching, you know, it may be there. It may not be  
4       there. In my experience in reading through --

5               THE COURT: Well, that's the least of our  
6       problems, Ms. Fitzpatrick. I mean --

7               MS. FITZPATRICK: Okay.

8               THE COURT: -- someone failed to put in  
9       protest code. We have a much bigger issue, which is  
10      one witness who's claiming it can be done, and you  
11      saying it cannot. Well, that's -- I don't quite  
12      have an answer right now what to do about that. I  
13      mean, is Ms. Foster more familiar with this or less  
14      familiar with this than you?

15              MS. FITZPATRICK: I know Captain Foster,  
16      and I know that she did work in the Internal Affairs  
17      Bureau. I'm going off of my conversations with  
18      people that currently work in IAB.

19              You know, as I've said and I have explained  
20      that my search functionality -- my ability to search  
21      in the IAB database is limited to tax numbers. And  
22      I've had conversations with people who currently  
23      work in IAB and have explained to them what we need  
24      with regards to the specific request that we have  
25      received. And we've done the best search, to my

1 mind, to what they have said to me that we were able  
2 to do.

3 THE COURT: Right. Well, that depends upon  
4 what you were given, of course, and, you know, what  
5 you specifically were asked to do.

6 MS. FITZPATRICK: Correct.

7 THE COURT: And, Ms. Marquez, I'm just  
8 trying to think of how we do this because --

9 MS. MARQUEZ: And I will say that, you  
10 know, there are -- even if we were to go off of the  
11 logs and cases that defendants were able to  
12 identify, I think that we have a good universe  
13 there, to be honest, of just the numbers. The  
14 problem is I don't know how we got --

15 THE COURT: Stop. Wait, wait, wait. I --  
16 hold that thought. I didn't understand the premise.

17 MS. MARQUEZ: The premise --

18 THE COURT: Were you pointing out logs?  
19 I'm sorry.

20 MS. MARQUEZ: Okay. So there's -- I'm  
21 still trying to figure this out. And through the  
22 30(b)(6) witness, she tried to help me. IAB at the  
23 command center creates a log number. They control  
24 the opening of a case and associated --

25 THE COURT: A log number is just a number

1 associated with a case.

2 MS. MARQUEZ: Right, with a complaint.

3 And then there's these cases that can be  
4 associated with that log, and where that goes in the  
5 universe of NYPD could change. That's not the  
6 important part. I guess the important part is that  
7 -- that we -- we have -- that, you know, the  
8 defendants have identified a number of  
9 protest-related logs and cases with, you know, these  
10 numbers.

11 The problem that we're seeing, the main  
12 deficiencies we're seeing on our end is that we'll  
13 see maybe one document or one video with this log  
14 that's just floating out there without all of the  
15 other things that should be in that case file. And  
16 we don't know how it is that defendants identified  
17 this case or log as protest related, yet didn't  
18 produce everything that's in that file, if that  
19 makes sense. I understand --

20 THE COURT: Okay.

21 MS. MARQUEZ: -- there could be -- there  
22 could be a universe also of things that have yet to  
23 be identified at all by number or -- by number.  
24 And I don't have the best answer for you as to how  
25 to find those other than the search criteria just,

1     you know, what I believed the defendants had already  
2     searched.

3             But for those logs and case numbers that  
4     have been identified by defendants we believe, you  
5     know, in our end receiving the formal production.  
6     I'm able to look up the folders that encompass the  
7     documents. Because there -- the file names will  
8     have the IAB number, and so I could see some of  
9     those numbers.

10            The issue is, on my end, it's really  
11     difficult to determine if the case file is complete  
12     until I get these, you know, sort of glimpses as I  
13     did with Lieutenant Dim, where we get this  
14     pre-deposition packet that says this case number  
15     actually was closed back in 2020. And I have only  
16     one document from that case file.

17            So I don't know where the hiccup went, you  
18     know, where they isolated this case as being protest  
19     related but simply didn't produce everything that  
20     was in that file. And so even if we were to go with  
21     the logs and cases they've identified as protest  
22     related, I want this file complete. And so that's  
23     one aspect of the problem that we thought an audit  
24     would help with.

25            THE COURT: Okay. Well, that's at least a

1 solvable --

2 MS. MARQUEZ: I think so. Yeah. And  
3 that's why I wanted to present that as maybe the  
4 first step.

5 THE COURT: Okay. Well, why don't we try  
6 to tackle that. So what went wrong? I don't know  
7 if was it the same thing with Fiorenza that you --  
8 that you found out later.

9 MS. MARQUEZ: Right. And so Fiorenza is a  
10 unique case. Because we actually -- so the OAG  
11 conducted investigation pre-litigation, of course,  
12 and got some files then. Oddly, we did not get the  
13 same or any IAB files for Fiorenza during the  
14 litigation until this bubbled up more recently.

15 But we had no idea that the case had closed  
16 as of 2020. And so that's a somewhat unique case.  
17 But Lieutenant Dim also his case closed 2020. We  
18 didn't get anything except for one video file that  
19 had no information, you know, related to it that we  
20 could discern.

21 So I guess what I would propose there is  
22 that they should be able to look at their formal  
23 production, which the folders that they produced to  
24 us typically had the file name associated with the  
25 log or case number that the IAB had associated and

1 just complete the production for those. Because  
2 they've already done the work of saying this is  
3 protest related.

4 THE COURT: So there's a --

5 MS. FITZPATRICK: Your Honor, I apologize,  
6 if I may just say one thing. I just want to clear  
7 this up. Because it does cause an awful lot of  
8 confusion for many people. Because the disciplinary  
9 process is a little bit Byzantine.

10 The mere fact that there's an IAB log  
11 number doesn't necessarily in and of itself mean  
12 that there's a fulsome investigation that went  
13 actually to an IAB group or an investigatory unit to  
14 be investigated. So I just want to make the Court  
15 aware of that.

16 THE COURT: Okay. They just want  
17 everything. They don't care if it's one document,  
18 but they need to have all the documents. I assume  
19 you understand that's what she's saying.

20 MS. FITZPATRICK: Yes, I do.

21 THE COURT: Okay. So do -- so is it that  
22 you -- I mean, it's just may be helpful  
23 emblematically. So with -- what happened with Dim?  
24 There was -- and let me start with Ms. Marquez.

25 There was a production independent of the

1 deposition, you know, packet. And at the time it  
2 was made there should have been more or it was  
3 closed later or what -- and then they should have  
4 gone back or what went wrong as far as you can tell?

5 MS. MARQUEZ: Sure. So I'll actually start  
6 with the premise that you were just discussing with  
7 Ms. Fitzpatrick -- or Ms. Fitzpatrick raised. Some  
8 of these cases have a log number and basically  
9 nothing else.

10 We have reached out -- we had reached out  
11 back in, I think, 2021 or early '22, to defendants  
12 to inquire about those types of case files to say,  
13 you know, we have two documents. How could that be  
14 the entire case file? And they would say, well,  
15 that's all that exists, and we were going to just  
16 accept that the IAB didn't do a fulsome  
17 investigation, and that's the status -- you know,  
18 like that's just how they do their business.

19 And so I think that's what happened with  
20 the Dim file, which had one video file. But when we  
21 two day -- I think it was a two days before, a few  
22 days before the Dim deposition this year in March,  
23 got the pre-deposition packet we learned, in fact,  
24 they had done a fulsome investigation, and it was  
25 closed.



1           It had been investigated to closure in  
2   2020. This was before of course our request for  
3   production. This was before the Court ordered all  
4   documents be produced by April 15. And so we went  
5   back to defendants and asked for those records, of  
6   course.

7           And it -- so this goes to the point that it  
8   is difficult for plaintiffs to determine is this an  
9   IAB case file where they simply just didn't do an  
10   investigation, and that's why we have one document,  
11   or is it that we never got the full production? And  
12   we've --

13           THE COURT: Right.

14           MS. MARQUEZ: -- asked -- you know, we've  
15   asked defendants many times to confirm with the  
16   chart in various conferrals. Like, is this a  
17   complete universe of what defendants have in their  
18   -- in their possession control? And they would  
19   represent yes. And so, you know, we move on until  
20   we get this kind of evidence. And it's at the point  
21   where we can't wait any longer and do those  
22   conferrals over and over --

23           THE COURT: No, I understand. I'm just  
24   trying to understand what the lesson is to be  
25   learned from Dim, in the sense that if I'm -- if,

1     you know, you or I were the City and we -- it was  
2     our earnest goal to produce everything that we're  
3     required to produce, what is it we did with Dim, and  
4     what did we do wrong that you didn't get all of the  
5     documents, you know, prior --

6             MS. MARQUEZ: Right.

7             THE COURT: -- to the deposition? So I  
8     guess, Ms. Fitzpatrick, do you know the answer to  
9     that question?

10            MR. HIRAOKA: Well, Your Honor, if I can  
11     just step in for a moment is that, you know, as Ms.  
12     Fitzpatrick has been explaining, is that the system  
13     is not made to do that sort of a search for, you  
14     know, quote, unquote, protest-related files just by  
15     what Captain Foster may have testified to.

16            Like I said, I'd have to look at the whole  
17     testimony to find out what exactly she was  
18     testifying about. But be that as it may, since the  
19     system is not made to do that kind of a search,  
20     that's not what the system was made to do.

21            You know, there's -- because of that, and  
22     Ms. Fitzpatrick can confirm this, there's no one-set  
23     procedure as to how to look for certain types of  
24     files, certain officers, certain locations, et  
25     cetera.

1           And given the volume of information that we  
2           had to get and given the fact that the system is not  
3           made to search for that sort of information, you  
4           know, inevitably you're going to have a few  
5           oversights, which is what happened here. What --

6           THE COURT: I want to -- I still don't  
7           understand what happened with Dim. So it'd be great  
8           if someone from the defense side could explain it to  
9           me. Was there -- was Dim's name -- maybe Ms.  
10          Marquez should start. Was Dim's name provided at  
11          some point? Is it Dim's name on Exhibit A or B?

12          MS. MARQUEZ: Yes. I'm going -- I'm going  
13          to, unfortunately, have to reference A and B again.

14          So the August 2022 RFPs, both in Exhibit A,  
15          because it was a CCRB case, or one of them was and  
16          in Exhibit B., because we specifically named him as  
17          relating to one of our incidents, Dim and Fiorenza  
18          were named, as was, you know, in our --

19          THE COURT: Okay.

20          MS. MARQUEZ: Yes, specifically named.

21          THE COURT: So it's -- Mr. Hiraoka, if you  
22          -- I assume you understand what I'm trying to get at  
23          here.

24          Let's just limit it to the fact of the  
25          names on Exhibit A. It seems to me the system is

1     able to run it by an officer's name and to produce  
2     the IAB file for that officer's name. And I gather  
3     one video was produced. I don't know why that  
4     happened, but maybe you know. So why wasn't  
5     everything produced if it was in a name given in  
6     August of 2022?

7             MR. HIRAOKA: That's what I was addressing,  
8     Your Honor. And I think Ms. Fitzpatrick can expand  
9     on it further. Is that if you have an officer's  
10    name, and she can expand on this I think, is that  
11    that's probably the most efficient way you could  
12    search for an IAB file if it's referable to a  
13    particular officer regarding a protest-related case.

14            But just because you have the name, even  
15    though that may be the most efficient way of looking  
16    for it, that's not a guarantee that when you input  
17    his name every, you know, an IAB protest-related  
18    case that was pending against him whether it be open  
19    or closed, you know, was present or exists.

20            So, you know, since the system is not made  
21    to do that sort of a search, sometimes there's going  
22    to be an oversight. But as to specifically what was  
23    done in Lieutenant Dim's case, you know, I don't  
24    think I could explain it. And I don't know if Ms.  
25    Fitzpatrick could explain it either, other than what

1 she's already explained is that since the system is  
2 not made for that, inevitably there might be an  
3 occasional oversight.

4 But that doesn't mean, like, there's a  
5 system wide problem. It's not like nothing has been  
6 turned over, you know, thousands of --

7 THE COURT: Okay. I --

8 MR. HIRAOKA: Okay. So that's what I'm  
9 saying.

10 THE COURT: I'm not understanding this. I  
11 don't understand.

12 MS. FITZPATRICK: Your Honor, if I may.  
13 I'm sorry.

14 THE COURT: Go ahead.

15 MS. FITZPATRICK: So basically what Mr.  
16 Hiraoka is trying to say is that the way the system  
17 is designed, there are -- there will be different  
18 types of categories of people that are involved in a  
19 case. There can be the reporter. There can be the  
20 complainant. There can be a subject officer or an  
21 officer who's a witness.

22 So depending upon how they're coded into  
23 the system, if you look, it doesn't necessarily mean  
24 that although they may have been associated with the  
25 particular incident, that that particular incident

1 will always necessarily come up on their IAB resume.

2 It's just something that I have noticed.

3 So that's one possibility there with regards to  
4 this. The other issue is Ms. Marquez is correct in  
5 the sense that when something is called into the  
6 command center, there is an IAB log number that's  
7 generated.

8 What happened in the protest cases, and  
9 this has happened before in large scale events with  
10 the City, is that multiple people will call in an  
11 incident depending upon if they were present on the  
12 ground or if they saw it. A lot of the times with  
13 the protest cases many things came in via the press  
14 to the Deputy Commissioner of Public Information.

15 My point is that there may be several log  
16 numbers that have different degrees of information  
17 associated with a particular event. And when those  
18 log numbers are generated, it's incumbent upon the  
19 person who's taking the information to check and see  
20 if there are other logs that are associated with the  
21 same incident.

22 THE COURT: What was done with Dim, or do  
23 you not know the answer to that question?

24 MS. FITZPATRICK: What was done with Dim,  
25 Your Honor?

1 THE COURT: Yeah.

2 MS. FITZPATRICK: I mean, I didn't -- as I  
3 said, I don't have access to search. When we got  
4 that list, what we did, as we do in the normal  
5 course, is we sent the list off to the various  
6 stakeholders that would have information about that  
7 case.

8 So that would be because they were  
9 requesting the IAB investigation and any attendant  
10 disciplinary files from the department advocate's  
11 office in addition to the Deputy Commissioner of  
12 Trials, those -- that request were sent to the  
13 various -- those places. So I can't speak to the  
14 search that was done specifically for Dim. Because  
15 I didn't do the search. We sent a request out for  
16 that.

17 THE COURT: So who -- I mean, is there one  
18 or more persons who are doing these searches for  
19 you?

20 MS. FITZPATRICK: There are several people.

21 THE COURT: Is Foster one of them?

22 MS. FITZPATRICK: No.

23 THE COURT: Okay.

24 MS. FITZPATRICK: She doesn't work in IAB  
25 anymore. She hasn't worked in IAB in quite some

1 time.

2 THE COURT: Oh, okay.

3 MS. FITZPATRICK: She was a lieutenant when  
4 she was in IAB. She's a captain now.

5 THE COURT: Okay. But back to my question  
6 which is who is actually doing -- I think I need to  
7 hear from who -- or maybe start Ms. Marquez needs to  
8 talk to with your presence, the people who are  
9 actually doing the searches to understand what can  
10 be done.

11 I think that is going to be much -- I don't  
12 know. Ms. Marquez, I'm just a little lost to figure  
13 out what exactly to do here. I'm happy to give you  
14 access to more people if you think that'll help.

15 MS. MARQUEZ: And I think Captain Foster  
16 was quite knowledgeable in the search criteria, and  
17 it seemed to, you know, it seemed to be pretty cut  
18 and dry as to what you could search for. But it  
19 seems that potentially --

20 THE COURT: But they're saying -- they're  
21 saying she's wrong. I'd like -- I think it would  
22 better if you could have in front of you someone who  
23 actually does this stuff all the time --

24 MS. MARQUEZ: It would be great.

25 THE COURT: -- what could be done. I



1 think --

2 MS. MARQUEZ: She was --

3 THE COURT: -- that's what we need to  
4 have --

5 MS. MARQUEZ: Right. She was designated,  
6 albeit she was not -- she's not currently an IAB.  
7 She was designated as a city witness --

8 THE COURT: I mean, I don't want to do this  
9 in a 30(b)(6). I want to do this, you know, within  
10 the next couple of days in, you know, an ESI-type  
11 meeting. So --

12 MS. MARQUEZ: I will say that one  
13 preliminary step, Your Honor, sorry to speak over  
14 you, is our main pressing concern are these  
15 depositions coming up and that we, you know, are  
16 still fighting for files on the eve of these  
17 depositions.

18 I think that a very easy step, and it  
19 sounds like they could do this, is just run the  
20 names of these deponents who are coming up and see  
21 if there's any IAB-related files for them and  
22 produce them in full.

23 THE COURT: All right. That seems like a  
24 bare minimum for right now. Any problem with  
25 that --

1 MS. MARQUEZ: For right now.

2 THE COURT: -- Mr. Hiraoka?

3 MR. HIRAOKA: No. That's something that  
4 was suggested before, you know, for deponents that  
5 are coming up, the City wouldn't have any objection  
6 to doing an updated search for them to see if there  
7 are IAB files for those deponents who are  
8 outstanding.

9 THE COURT: Hold on a second. I'm going to  
10 issue a written order on this.

11 Defendants to immediately run a search  
12 through their IAB database for all deponents, for  
13 all individuals scheduled to be deposed as of today,  
14 shall produce all IAB files that are related to  
15 protest -- how do I phrase this -- that involves  
16 incidents occurring during protest.

17 MS. MARQUEZ: It should be something along  
18 the lines of full investigative files for incidents  
19 arising from the Amended Schedule A.

20 MS. FITZPATRICK: If I may, to the extent  
21 that they --

22 THE COURT: Hold on. Hold on. Hold on.  
23 For all incidents arising -- what do you call it,  
24 the Amended Schedule A, right?

25 MS. MARQUEZ: Yes. And I only say amended

1 because there's a few more dates that the addition  
2 of the Gray and Roland cases --

3 THE COURT: Got it.

4 And your addition, Ms. Fitzpatrick, was if  
5 they exist. Is that what I heard?

6 MS. FITZPATRICK: To the extent they exist,  
7 yes. Because, you know --

8 THE COURT: Totally -- totally,  
9 unnecessary, anytime you get a discovery request  
10 that asks you to produce all files, you can only  
11 produce what exists.

12 MS. FITZPATRICK: Well, I understand that,  
13 but I just wanted -- because, you know, there seems  
14 to be some confusion with regards to, you know, like  
15 what exist as opposed to what actually exists. And  
16 I'm just trying to educate the plaintiffs' attorneys  
17 about that.

18 THE COURT: Okay.

19 MR. HIRAOKA: And also, Your Honor, may I  
20 just add one thing? With respect to the upcoming  
21 deponents, I would submit that these have -- these  
22 should be for the disciplinary files -- for the IAB  
23 files, it should be confined to the fact witnesses  
24 and not the 30(b)(6) witnesses. Because the issues  
25 of the disciplinary issues are really not relevant

1 for the 30(b)(6) witnesses. So --

2 THE COURT: Well, I said individual --  
3 individual schedule to be deposed. I didn't  
4 consider 30(b)(6) as included -- inclusive in that  
5 term. But feel free to accept the clarification as  
6 I'm giving it to you orally.

7 MR. HIRAOKA: I'm sorry. You just faded  
8 out there a little bit. What was that?

9 THE COURT: The wording I used was  
10 individuals scheduled to be deposed, and I don't  
11 view a 30(b)(6) deposition as a deposition of an  
12 individual. It's a deposition of the City.

13 MR. HIRAOKA: Understood.

14 MS. MARQUEZ: And just for clarification, I  
15 think files covers it. But just so I'm clear,  
16 because in the past for Fiorenza, for instance, we  
17 only got the worksheet which goes over what the  
18 investigator did but not the, you know, attachments.  
19 And so the file should be all the documents IAB has  
20 on that log or case. Hopefully that's clear.

21 THE COURT: The --

22 MS. MARQUEZ: So for Fiorenza, for  
23 instance, in the first pass they only gave us what  
24 it's called a worksheet. That just is a list --  
25 basically a list of every -- all the actions the

1 investigator took but not the evidence they  
2 compiled. So the file, as I've been referring to  
3 it, should be everything that IAB has on that  
4 investigation.

5 MR. HIRAOKA: That includes the  
6 attachments. That's fine. And just for your  
7 information, Your Honor, the Fiorenza files have  
8 already -- the full files have already been  
9 produced. They were produced last Friday, just as a  
10 note. But understood, yeah, the attachments do have  
11 to be included with -- as part of the full file.  
12 That's understood.

13 THE COURT: All right. Defendants shall  
14 immediately run a search through their IAB database  
15 for all individuals scheduled to be deposed as of  
16 today and shall produce all IAB files that involve  
17 incidents occurring during protests arising from  
18 amended Schedule A. The full investigative files  
19 including all documents in IAB's possession in  
20 regard to that investigation shall be produced.

21 MS. MARQUEZ: Thank you, Your Honor.

22 THE COURT: That's our temporary fix.

23 MS. MARQUEZ: That's our -- the most  
24 immediate concern, yes.

25 THE COURT: Okay.

1 MS. MARQUEZ: And then to the next step --  
2 I suppose it would be, as you were suggesting, good  
3 to meet with someone who actually runs -- ran the  
4 searches to both see what has been, you know, run,  
5 what they have been able to do to locate what they  
6 have located thus far, but also the search -- be  
7 able to speak to the search capabilities of -- and  
8 the two systems as I am aware of they're called ICMS  
9 and ICMT that house these investigative files. They  
10 should have knowledge of how to run searches there.

11 THE COURT: Okay. So, Mr. Hiraoka, my view  
12 is that this should be as part of a sit-down video  
13 some session where this -- a person who actually  
14 does this in IAB. To me, it's more important to  
15 know the capability than what's happened in the  
16 past. That's step stage three.

17 Most important thing now is once we get the  
18 deponents is to figure out exactly what can be done  
19 so that the plaintiffs can discuss with you whether  
20 you've done enough or not and what needs to be done  
21 in the short term, and you can reach agreement on  
22 that or not, or bring it to me.

23 So I think I've ordered this sort of thing  
24 before, and I think Ms. Fitzpatrick was involved.  
25 But I want that meeting to happen as soon as

1 possible as for a person who's, you know, very  
2 knowledgeable about this to be there who, you know,  
3 who actually does these searches. So how quickly  
4 can you put that meeting together?

5 MR. HIRAOKA: Ms. Fitzpatrick --

6 THE COURT: Like a day or two, you know,  
7 next week, early next week, something like that.

8 MR. HIRAOKA: It would depend on Ms.  
9 Fitzpatrick's staff's availability. Of course,  
10 we're going to move as quickly as we can --

11 THE COURT: Does this person work for you,  
12 Ms. Fitzpatrick, or someone else?

13 MS. FITZPATRICK: Well, I just want to say  
14 one thing. I'm not trying to make things  
15 complicated. The ICMS system is the database that's  
16 used by the Internal Affairs Bureau. ICMT is  
17 actually used by a different entity in the  
18 department.

19 THE COURT: Do they cover the same database  
20 or not?

21 MS. FITZPATRICK: No.

22 THE COURT: What is -- what database --

23 MS. FITZPATRICK: If I may very briefly  
24 just explain one quick thing. IAB does not  
25 investigate all allegations of misconduct.

1 Allegations of misconduct that fall into the  
2 category generally of misconduct and corruption are  
3 usually investigated by IAB.

4 Other things are sent out to what we call  
5 investigatory units. The investigatory units  
6 memorialize their -- sorry, their investigations in  
7 ICMT, which stands for Internal Case Management  
8 Tracking System.

9 THE COURT: Things like false arrest and  
10 excessive force, that's IAB or not necessarily?

11 MS. FITZPATRICK: Not necessarily, no. It  
12 depends upon the level. Like for example if it's a  
13 level one --

14 THE COURT: All right. All this time we've  
15 been talking IAB. So I can only do one thing at a  
16 time.

17 MS. FITZPATRICK: Okay, I'm sorry.

18 THE COURT: No. I'm not blaming you. But  
19 it sounds like what you're saying is if you want  
20 IAB, we're talking ICMS, not ICMT.

21 MS. FITZPATRICK: Correct.

22 MS. MARQUEZ: I could clarify, Your Honor.  
23 Sorry to make this overly complicated. I could  
24 speak later to it if you prefer.

25 THE COURT: Well, I'm just -- the first --



1 the order of business right now was to come up with  
2 a date for this meeting to happen.

3 So, you know, my -- my thought is Friday.  
4 If someone wants to make a strong case that's  
5 impossible, I'm willing to hear it.

6 MS. FITZPATRICK: I mean, I'm sorry, Your  
7 Honor, you're specifically talking with regards to  
8 searches? How are they conducted by IAB?

9 THE COURT: Yes.

10 MS. FITZPATRICK: Okay. I would need to  
11 speak to the Chief of Department. Sorry, the Chief  
12 of IAB. They have a new administration. It may  
13 take a little bit longer because they're requiring  
14 all requests to go through channels, which just as a  
15 general proposition takes a bit longer, the way the  
16 department works. So I don't know if Friday is  
17 possible.

18 THE COURT: Right. Here's what I'm going  
19 to do. I'm going to order it for Friday. If you  
20 need an extension, you'll make an application.

21 MS. FITZPATRICK: Okay.

22 THE COURT: And if you folks agree  
23 otherwise, you'll agree otherwise.

24 Defendants shall arrange for a meeting  
25 between plaintiffs' counsel and an individual with

1 personal knowledge and experience in using databases  
2 to search for IAB records.

3 Is that the way I should put it, Ms.  
4 Marquez, from your point of view?

5 MS. MARQUEZ: And -- yes. And so I was  
6 just going to mention that the -- the requests are  
7 framed as NYPD investigative files including IAB.  
8 And so this distinction between investigative units  
9 and the IAB, we had understood them to be all as  
10 one. But, I mean, we've been speaking as IAB, and I  
11 think that would be the clearest. But if we need to  
12 include the --

13 THE COURT: I mean, your letter -- your  
14 letter says nothing but IAB.

15 MS. MARQUEZ: I understand --

16 MS. FITZPATRICK: Your Honor --

17 MS. MARQUEZ: Because they are IAB log --  
18 they retain the IAB log numbers. And so that's what  
19 we've been talking about this whole time, even if  
20 it's been transferred to an investigative unit.

21 And we did receive documents from the ICMT  
22 system which are, you know, where these  
23 investigative units retain their records, and they  
24 can be pulled through this bigger ICMS system. So I  
25 think it is still accurate as to say --

1 MS. FITZPATRICK: No. It's not true  
2 actually. You can't get the investigatory files  
3 through the ICMS system, at least I can't.

4 MS. MARQUEZ: You can't, but Captain Foster  
5 could.

6 MS. FITZPATRICK: Okay. But Captain Foster  
7 hasn't worked for IAB in quite a long time, and her  
8 level of access may be different from mine. I  
9 currently have access to ICM -- ICMTS. And the  
10 search functionality as it lives in ICMTS is the  
11 same as it lives in ICMS. I recently had a meeting  
12 with people at IAB who confirmed that for me. And I  
13 searched ICMTS in order to be able to provide you  
14 with the documents that were outside of the world of  
15 IAB.

16 THE COURT: Okay. Well, we still need this  
17 IAB person, do we not?

18 MS. FITZPATRICK: Sure.

19 THE COURT: Ms. Marquez?

20 MS. MARQUEZ: Yes.

21 THE COURT: Okay. So let's -- this is just  
22 the meeting for Friday. I'm happy to talk about  
23 other things that are needed. So just to finish my  
24 -- or to repeat: Defendants shall arrange for a  
25 meeting between plaintiffs' counsel and an

1 individual with personal knowledge and experience in  
2 using the database to search for IAB records on  
3 Friday, April 23rd. I think I got the right date.

4 MS. MARQUEZ: 21st, I think.

5 MR. HIRAOKA: 21st, I believe, yes.

6 THE COURT: I'm sorry. Yeah, yeah, yeah,  
7 Friday, April 21st.

8 MS. MARQUEZ: And, Your Honor, I'm not sure  
9 if the first order regarding the immediate search  
10 for deponents had a deadline to produce anything  
11 found.

12 THE COURT: No. We need to talk about  
13 that.

14 MS. MARQUEZ: Okay.

15 THE COURT: You need them at least a week  
16 before the deponents to be deposed, right?

17 MS. MARQUEZ: That would be helpful, yes.

18 THE COURT: Okay. So I'll say at least  
19 they should be at least -- and then we have the ones  
20 that are coming up -- the ones coming up this week,  
21 in the next five days?

22 MS. MARQUEZ: So there's a Sergeant  
23 Saturnin tomorrow, but I'm not sure if there's  
24 anything that we haven't received for him, but I'm  
25 just looking ahead. We have a number of fact

1 witnesses, again starting Wednesday. So Saturnin I  
2 believe is a fact deposition --

3 THE COURT: Okay. As long as Wednesday --  
4 today's Tuesday, right?

5 MS. MARQUEZ: Today is Wednesday.

6 THE COURT: Today is Wednesday. Okay. So  
7 I'll say at least a week before the deposition,  
8 except this person that's coming up Wednesday.  
9 What's their name?

10 MS. MARQUEZ: Wednesday coming up is  
11 Saturnin, S-A-T-U-R-N-I-N.

12 THE COURT: Title, honorific, something?

13 MS. MARQUEZ: I'm trying to get that from  
14 some colleagues --

15 MS. FITZPATRICK: I believe he's a  
16 sergeant --

17 MS. MARQUEZ: I think it's a sergeant --

18 THE COURT: Sergeant -- respective Sergeant  
19 Saturnin file shall be produced by Friday 21st. Is  
20 there a Thursday one or not?

21 MS. MARQUEZ: Next Thursday is Conforti.  
22 I'm not recalling the rank.

23 MR. HIRAOKA: Your Honor, I think Conforti  
24 is not an individual. I don't think he's a fact  
25 witness.

1 THE COURT: You think you're producing  
2 30(b)(6)?

3 MR. HIRAOKA: I believe so, yes.

4 MS. MARQUEZ: I don't think that's  
5 accurate. Sorry.

6 THE COURT: All right.

7 MS. MARQUEZ: Sorry.

8 THE COURT: If I -- okay. If Mr. Conforti  
9 -- someone's going to look this up - -

10 MS. MARQUEZ: Chief Conforti, I believe.

11 THE COURT: If chief Conforti is a fact  
12 witness. I'll say --

13 MS. NELSON: Your Honor?

14 THE COURT: -- rule 30(b) -- 30(b)(1)  
15 witness.

16 MS. NELSON: Your Honor?

17 THE COURT: Yep.

18 MS. NELSON: This is Ms. Nelson. May I  
19 just speak very briefly on this? If you recall --

20 THE COURT: On Conforti?

21 MS. NELSON: Yes.

22 THE COURT: Okay. Go ahead.

23 MS. NELSON: If you recall, there was a  
24 conference with respect to an after-action report  
25 that was prepared by Chief Conforti. The deposition

1 is pursuant to that ruling. With respect to the  
2 process --

3 THE COURT: Before you go any further, was  
4 he -- was he at any of these protests?

5 MS. NELSON: I do not recall that, Your  
6 Honor. His deposition is about the process that is  
7 used with respect to preparing these after-action  
8 reports.

9 THE COURT: Did I order his deposition, or  
10 did they notice it?

11 MS. NELSON: Your Honor, I do not recall if  
12 it was -- I believe it came up at the conference. I  
13 don't believe if they -- if he was -- actually, Your  
14 Honor, he was noticed as a 30(b)(6), and that was  
15 part of what was discussed at the conference.

16 THE COURT: All right. Well, if it turns  
17 out he's not a 30(b)(6), I'm sure the plaintiffs  
18 will let me know about it in writing if they wish.  
19 Okay.

20 MS. NELSON: Your Honor, I'm fairly sure he  
21 is not a 30(b)(6).

22 THE COURT: I don't know what to do. I  
23 mean, you have my order, Ms. Nelson. I'm -- if he's  
24 -- he's deposed as an individual, you've got to  
25 produce his file on Friday. So you run at your own

1 risk.

2 MS. NELSON: Understood. Your Honor, may  
3 I --

4 THE COURT: Okay.

5 MS. NELSON: -- just ask for a little  
6 clarity? If his deposition is about the process and  
7 nothing more, that's what the deposition is supposed  
8 to be about do we have to produce -- do we have to  
9 search for any --

10 THE COURT: I mean, if he's got an IAB file  
11 about the protest. I think they should see it.

12 MS. NELSON: Okay. Thank you, Your Honor.

13 THE COURT: Yeah. Okay. So we've now  
14 dealt with a couple of short term problems. Ms.  
15 Marquez, I mean, my goal is for you to figure out  
16 what more can be done to search for people, and, you  
17 know, certainly what's happened in the past to do  
18 searches, you can certainly do it in the context.  
19 You should certainly ask about what's happened in  
20 the past and figure out what is reasonable to happen  
21 in the future. And if, you know, things weren't  
22 reasonable in the past, you're certainly free to  
23 raise that with me.

24 MS. MARQUEZ: Thank you, Your Honor. And I  
25 will just note that I think this is a good solution



1 for the cases where we -- I don't want to complicate  
2 the process -- where we don't know the log and case  
3 number.

4 From what I've heard today it seems that if  
5 we do know the case log -- excuse me, the log and/or  
6 case numbers, those could be easily run without any  
7 other data points. I didn't hear anything contrary  
8 to that. So in terms of something, you know --

9 THE COURT: Ms. Marquez, want to make sure  
10 you got the full production.

11 MS. MARQUEZ: Right. And so I don't even  
12 think I need to talk to that person to understand,  
13 because I don't think there's a dispute. Those can  
14 simply be put in. It'll spit out, you know, this is  
15 the investigative file for that log or case number.  
16 I don't understand what -- why that can't be just an  
17 immediate order, you know, produce what has not been  
18 produced from those files.

19 THE COURT: And what document will they  
20 turn to, to look to see, we need to make sure we  
21 produce everything?

22 MS. MARQUEZ: So I think it's correct that  
23 there isn't just one. My understanding -- so when I  
24 look at the production on my end from what  
25 defendants have produced to us, one could look up,

1     you know, the preface log and then the case -- you  
2     know, just look up what case -- or log numbers,  
3     excuse me, have been produced. Because most file --  
4     folders that we received have that in their file  
5     name or the, you know, case number associated. And  
6     those case numbers have prefixes that are set.  
7     Either it's a force case, FI, it's an outside  
8     guidelines case, OG, it's a corruption case with the  
9     C or, I think, CC prefix.

10           There are ways they should be able to  
11     search from their own production what they have  
12     identified as protest related. I don't pretend to  
13     know exactly, you know, how smooth this process will  
14     be, but I think that, you know, the way I look for  
15     IAB cases on my end in relativity, I could simply  
16     put in log, the number, and it will tell me if that  
17     has been produced. Does that make sense?

18           THE COURT: No. Sorry. Try again.

19           MR. HIRAOKA: Your Honor, can I just  
20     interject for one second? Yeah. I'm not -- from  
21     what I understand, I believe what Ms. Marquez was  
22     saying is that there shouldn't be a problem locating  
23     a file if we have like the case number and/or log  
24     number. I'm not sure if that's actually correct.  
25     Maybe Ms. Fitzpatrick can chime in on that.

1           MS. FITZPATRICK: Within our databases, are  
2 you referring to that, or are you talking about  
3 relativity? I'm sorry. I'm a little confused, Ms.  
4 Marquez, I apologize. I wasn't sure what you were  
5 referring to.

6           MS. MARQUEZ: I was referring to your  
7 formal production. You have a vendor that produced  
8 to us. And so I'm just saying what I could see on  
9 my end, because that's how we have our -- we use  
10 relativity. I don't know what you all have on your  
11 end is what I'm saying.

12          THE COURT: So try me again and maybe Ms.  
13 Fitzpatrick will be able to answer the question.  
14 Tell me what it is that you want them to do  
15 precisely.

16          MS. MARQUEZ: So my understanding is that  
17 there's, you know, they should be able to see what  
18 IAB productions, formal productions, they've done  
19 through their vendor. Because they'll --

20          THE COURT: Okay. Stop right there.

21          MS. MARQUEZ: Yes.

22          THE COURT: Stop right there. Is that  
23 true, Ms. Fitzpatrick? Can you tell what IAB  
24 productions you've done already?

25          MS. FITZPATRICK: I produce the file to the

1 law department. I am not involved in what goes into  
2 relativity, Your Honor. I apologize.

3 THE COURT: All right. Mr. Hiraoka, can  
4 you do it?

5 MR. HIRAOKA: No, it's not always a -- no.  
6 It's not -- it's always -- not always that simple,  
7 Your Honor. The search capabilities of relativity  
8 are complex in and of themselves. We can't just,  
9 you know, always just go in and plug in a number and  
10 then have it come up. It's a long convoluted  
11 process, but if you put in a certain --

12 THE COURT: How many files, Ms. Marquez, we  
13 are talking to?

14 MS. MARQUEZ: I don't know the universe.  
15 But I -- another thing I could offer although, you  
16 know, it would be another burden to us, would be to  
17 try our best to create a list for defendants.

18 THE COURT: That's what I -- that's what I  
19 was about to --

20 MS. MARQUEZ: I didn't want to offer that  
21 up. Because --

22 THE COURT: Unfortunately, that's where we  
23 are.

24 MS. MARQUEZ: Yes.

25 THE COURT: Don't worry, you're not

1 offering, I was going to tell you.

2 MS. MARQUEZ: Okay. That would be the  
3 next --

4 THE COURT: That's probably the quickest  
5 way to do it.

6 MS. MARQUEZ: Yeah. The next thing,  
7 because frankly I think it is something defendants  
8 can do. But we will try to do it, produce a list to  
9 them and --

10 THE COURT: You're going to put together a  
11 list. Is this going to be 10, 50, 100, 500 cases  
12 or --

13 MS. MARQUEZ: I don't think it is 500. I  
14 think it's more in the realm, if I were to guess,  
15 under 100.

16 THE COURT: Okay. And you want them to  
17 confirm that the entire file was produced, including  
18 these exhibits? Is that kind of what we're getting  
19 at here or something else?

20 MS. MARQUEZ: That's right. No, just the  
21 entire file.

22 THE COURT: Okay. Mr. Hiraoka, any problem  
23 with that?

24 MR. HIRAOKA: I would prefer, you know,  
25 perhaps a more -- that in essence, equates to an

1 entire new audit, which is something, you know, that  
2 we're trying to avoid.

3 If she has something -- if Ms. Marquez  
4 could propose something a little more focused, I'd  
5 be open to that. But which is less than 100, you  
6 know, just for the sake of argument that could be  
7 99. And that's a lot of work and that -- like I  
8 said --

9 THE COURT: Why -- okay. Give them the  
10 full list, pick out ten, make them do ten, and if it  
11 turns out they messed up on the ten, then we'll know  
12 something. If it turns out there was no mess up on  
13 the ten, then, you know, maybe it'll be assuaged, or  
14 maybe we'll pick out another ten if you can try  
15 talking to them about that. But I don't think we  
16 need to do -- I think we could do a sample of the  
17 100 to figure out whether they have not done what  
18 they were supposed to do.

19 MR. HIRAOKA: If it's a sample of ten, Your  
20 Honor, I would have no problem doing that.

21 THE COURT: All right. I mean, feel free  
22 to give them the full list now if you want or just  
23 give them the ten. And then see if there's -- if  
24 that shows a problem. And if it doesn't, I'm not  
25 sure whether you'll be entitled to more, but we can

1 talk about your basis for believing that there is  
2 going to be more to be found.

3 MS. MARQUEZ: Well, the one thing I'll say  
4 is, you know, I don't quite understand the burden of  
5 inputting these -- these log numbers that we,  
6 plaintiffs, will be taking the time to compile. You  
7 know, if I could just understand what the burden is  
8 of doing a search of --

9 THE COURT: Sure.

10 MS. MARQUEZ: Yeah.

11 THE COURT: I was -- I was taking your word  
12 for Mr. Hiraoka, but I think she's entitled to or  
13 Ms. -- Ms. Fitzpatrick, she's entitled to know why  
14 it would be a problem to check all of them.

15 MR. HIRAOKA: That's Ms. Fitzpatrick. So,  
16 yeah. I mean, yeah. She's going to explain, Your  
17 Honor. You know, I think she's going to pretty much  
18 echo what's in her declaration regarding what would  
19 be involved but --

20 THE COURT: Well, why don't -- why don't we  
21 hear it?

22 MR. HIRAOKA: Yeah, yeah, yeah. No. I'm  
23 just saying yes. So to -- you know, to recheck --  
24 you know, to basically go over --

25 THE COURT: No, no, no. I want to hear

1 from Ms. Fitzpatrick.

2 MR. HIRAOKA: No, no. Yeah. I know -- I'm  
3 just trying to clarify, Your Honor. Go ahead, Ms.  
4 Fitzpatrick, about, you know, having to recheck 100  
5 files. Go ahead.

6 MS. FITZPATRICK: I'm sorry. I just wanted  
7 to be clear. You're proposing to provide us with  
8 IAB log numbers and case numbers that you have  
9 already received and for us to essentially do a  
10 quality control check to see if everything's been  
11 produced, right?

12 MS. MARQUEZ: Right. So what --

13 THE COURT: I think so, yes.

14 MS. MARQUEZ: Right. So what I -- I think  
15 what -- if I were asked to do this, what I would do  
16 is I would export that case file that pops up when I  
17 put in the log number, check to see -- check that  
18 against what I've produced and produce the remainder  
19 or that -- even simpler answer would be just to  
20 produce the whole thing.

21 But if the -- if the aim here is to see if  
22 there's anything that has not been produced, I -- I  
23 mean, I think, you know, using hashtags and  
24 relativity, that would tell me immediately if  
25 there's duplicates or anything that are not



1       duplicates, meaning there's been something that's  
2       been missed.

3               You know, I thought that would be a simple  
4       process, but I can't assume what the burden is from  
5       defendants, because I haven't heard it. And so if  
6       there's not much of a burden, I'd ask for more than  
7       a sample of 10. I'd ask for something closer to,  
8       you know, 30, 40 to run.

9               THE COURT: Okay. So, Ms. Fitzpatrick,  
10       tell us about the burden.

11              MS. FITZPATRICK: I'm sorry. And you're  
12       proposing that the search be done in relativity or  
13       that we do it at the department, in our databases?

14              MS. MARQUEZ: That you do it. Because  
15       relativity would not have the complete file  
16       essentially. We have that. We have what's been  
17       produced. We would give you the log --

18              THE COURT: Yeah. Ms. Marquez, just to  
19       show the logic behind this. I gather this is the  
20       Dim problem, right? You're trying to --

21              MS. MARQUEZ: That's right. Yeah. We have  
22       the --

23              THE COURT: We know this --

24              MS. MARQUEZ: Exactly.

25              THE COURT: -- this -- has been a problem.

1 Ms. Fitzpatrick, just so you understand. We know  
2 this has happened. We're just trying to figure out  
3 if it was something unique or if this is systemic.  
4 And the best way would be if you ran all 100 and see  
5 what happened, but if you are able to convince us on  
6 burden, we'll do a sample. But the reason for it is  
7 we know that something went wrong.

8 MS. FITZPATRICK: Well, the issue here,  
9 Your Honor, is as I stated previously -- as I stated  
10 previously is with regards to files that were  
11 investigated by IAB. The first stop obviously here  
12 would be for us to go to the IAB records officer.  
13 So those searches wouldn't be able to be conducted  
14 in house by my people.

15 And I don't know what their staffing levels  
16 are in IAB currently. So I don't know how long it  
17 would take them to search for any given number of  
18 particular files. I think I would be willing to say  
19 if I could take 10 and have them see how long it  
20 would take them to do that, maybe we would get a  
21 better idea of how burdensome this actually would be  
22 if we had a greater number to deal with.

23 I don't think given right now off the top  
24 of my head without knowing the staffing levels in  
25 IAB currently and who they have devoted to be able

1 to do these types of searches, I could answer that,  
2 you know, I don't want to -- I couldn't answer that  
3 necessarily because I don't really know. I don't  
4 have all the variables in front of me to make the  
5 calculation. Because I'm not doing the search, and  
6 my people aren't doing the search.

7 THE COURT: Okay. I appreciate the  
8 frankness. I think the -- I mean, the plaintiffs --  
9 why don't you do this. You start providing in a  
10 rolling basis as many numbers as you want up until  
11 the full 100.

12 And when you get the first 10 over to the  
13 defendants, they're to provide two things. One is  
14 either a reproduction or a statement that you've  
15 gotten everything already, or if they want, here's  
16 the additional stuff we missed and an affidavit to  
17 you from someone with personal knowledge as to how  
18 long it took to do the 10. And I'm happy to put a  
19 deadline on that. When can you get a listing of ten  
20 cases for them?

21 MS. MARQUEZ: I could do that tomorrow, I  
22 think.

23 THE COURT: Defendants -- I'll just say --  
24 I won't put a deadline on you.

25 MS. MARQUEZ: Thank you.

1           THE COURT: And then I'll say defendants  
2 shall -- I'll go through that same thing again --  
3 shall investigate whether all documents introduced  
4 as to those cases, I'm going to call them IAB cases,  
5 is that the right terminology -- a listing of the  
6 ten IAB cases to defendant, or is there some  
7 other --

8           MS. FITZPATRICK: I would say logs is  
9 probably more accurate because --

10          THE COURT: IAB log?

11          MS. FITZPATRICK: -- every investigation  
12 file has an IAB log number associated with it.

13          THE COURT: Okay. Log numbers. Okay. A  
14 listing of 10 IAB log numbers to defendants.  
15 Defendant shall determine whether all documents have  
16 been produced as to those log numbers. And if not,  
17 shall provide a full production by next Tuesday,  
18 let's say, April 25th. If you know, if you can make  
19 the case, you need more time, try it. But this is  
20 going to be the date.

21          MR. HIRAOKA: Okay. Sorry. What was the  
22 date again?

23          THE COURT: 25th. I'm sorry, I should say  
24 within -- within four business days of when you get  
25 the listing, of when you get the log numbers, only

1 10 of them. On the same date, the defendant shall  
2 provide an affidavit, a sworn statement to  
3 plaintiffs as to how long it takes to make that  
4 determination and produce the materials, any missing  
5 materials -- materials, if any. Okay.

6 MS. MARQUEZ: And if I may, Your Honor, to  
7 that last point, just want to maybe try to head off  
8 something that may happen, because based on my  
9 review of the declaration Ms. Fitzpatrick put in, it  
10 seemed like some of these processes may not be the  
11 most efficient.

12 If I may pitch that what I would think is  
13 most efficient is if, one, these logs are run by the  
14 IAB records officer. There should -- they should be  
15 able to just send a list of the file names to see if  
16 they've been produced to us, actually produced,  
17 instead of having to do eyes-on review. If that is  
18 a possibility, I would suggest that. Because I  
19 would think that's the most efficient and not  
20 having, you know, the process originally pitched as  
21 an audit would be to talk to people who produce  
22 these, and it seems very inefficient. I just wanted  
23 to offer that. That seems to be the best way to  
24 word this.

25 THE COURT: So the theory is someone should

1 be looking to see if it was produced or not before  
2 they make any effort to reproduce it. Is that what  
3 you're saying?

4 MS. MARQUEZ: Or, in other words, I would  
5 think it's most inefficient if a records officer had  
6 to look at the production and look at document by  
7 document, are these the exact same documents as  
8 opposed to looking at the data, meaning looking at  
9 the electronic files file name, and seeing that it's  
10 been produced. Hopefully that makes sense.

11 THE COURT: Yeah. No. I see what you're  
12 saying. So I'm just reading what wording, if any,  
13 needs to be changed?

14 MS. FITZPATRICK: Well, there's two --  
15 there's two numbers associated, Your Honor, with  
16 investigatory files, as Ms. Marquez has already  
17 referenced. There's the IAB log number, and then  
18 there's the case number. And the case number is  
19 what's going to have the alpha -- it's going to like  
20 have an M, a C, an F in front of it. And that  
21 designates the type of case that it is. I think  
22 that perhaps --

23 THE COURT: I understood Ms. Marquez to say  
24 something completely different. I thought you were  
25 saying that, you know, in any given file there may

1 be a bunch of, quote, file number with log, you  
2 know, number eight, whatever this thing is. There  
3 are a bunch of documents. These documents exist in  
4 electronic form, and each one has a little name. I  
5 don't know if it's a number, whatever it is. And in  
6 other words, instead of comparing the actual by  
7 looking at pages, just look at the file name.

8 MS. MARQUEZ: Exactly. Right.

9 THE COURT: Sub file --

10 MS. MARQUEZ: Yeah. And so say it's a  
11 video, and then you'd have like 1534.MP4, you know,  
12 indicating --

13 THE COURT: Right, right, right.

14 MS. MARQUEZ: -- it's a video file. And  
15 instead of --

16 THE COURT: You don't have to look at the  
17 video --

18 MS. MARQUEZ: Right. Instead of looking at  
19 the two videos which I -- you know, I don't  
20 hopefully think that that was going to be what was  
21 going to happen, but just to head it off at the --

22 THE COURT: Yeah, yeah, yeah. So defendant  
23 shall determine and I'll -- it's giving the  
24 defendants a break and making it easier for them by  
25 looking at file name.

1           MR. HIRAOKA: Well, Judge, you know,  
2 looking at things in relativity it's not always that  
3 simple to do. I would just suggest first -- can I  
4 just go back a little bit? And with respect to  
5 this --

6           THE COURT: Well, this is for your benefit.  
7 So if your answer is, I don't want the benefit,  
8 that's fine. But I'm probably not going to -- it's  
9 not going to change the deadline. I mean, it's up  
10 to you.

11          MR. HIRAOKA: Well --

12          THE COURT: I need you to produce this  
13 thing in four days. So I thought it would be easier  
14 for you to look at the file name than instead of  
15 looking at the video and see if it matches. But if  
16 you want to look at the video and see if it matches,  
17 I don't care.

18          MR. HIRAOKA: Well, then if you could put a  
19 provision that we'll research it, you know, that --  
20 in a way that's most efficient for us. I -- you  
21 know, I don't want to be put in a position where we  
22 have to search for something in a certain way when  
23 that way may not be the most efficient way as it  
24 turns out for us to find something. So --

25          THE COURT: Okay. I'll leave it blank, and



1 we'll hope it doesn't become an issue.

2 MR. HIRAOKA: And, Your Honor, I just want  
3 to -- can I just go back to one thing for just a  
4 moment --

5 THE COURT: Go ahead.

6 MR. HIRAOKA: -- if I could? With respect  
7 to the producing the first ten documents on a  
8 rolling basis, and we have to investigate if all the  
9 documents were produced for that particular --

10 THE COURT: It's not rolling. It's not  
11 rolling. The first 10 in four business days. After  
12 that we'll -- it may be rolling, but go ahead.

13 MR. HIRAOKA: Oh, right, right, the first  
14 10. Okay. Could we -- you know, there's a long  
15 process in trying to investigate these things as to  
16 whether or not the full file was produced. You  
17 know, we have to, you know, go through -- we have to  
18 go through Bridget, she has to go through certain  
19 people. We have to get -- we have to obtain a  
20 quote, for lack of a better term, an updated file to  
21 see if it's complete, and then we have to compare it  
22 to what was previously produced. So I'm just asking  
23 can we just push back the deadline within four days  
24 to seven days.

25 THE COURT: I'll give you five. If you

1     need -- if you need more, I want someone to really  
2     lay this out on an affidavit for me, so --

3             MR. HIRAOKA: All right.

4             THE COURT: All right. We just -- I don't  
5     -- you don't really have the luxury of time anymore.  
6     And the fact is, you know, we have evidence that  
7     there are -- that there could be a problem, and we  
8     need to get at this as soon as possible.

9             Ms. Marquez, what else do you think we  
10    should do today?

11            MS. MARQUEZ: I think that that's it. I  
12    mean, I was going to offer if defendants preferred  
13    to just give us the metadata of the file names, and  
14    we could do the comparison. I -- we'd be happy to  
15    do that. But if, you know, if that's that, then the  
16    only other issue is the issue of sanctions.

17            THE COURT: Okay. I don't see how I can  
18    possibly figure out sanctions until I figure out  
19    what's happened in the past. And I don't see how we  
20    can figure that out until you meet with this person  
21    and understand what the capabilities are and, you  
22    know, whether -- you know, as I said you should ask  
23    this person about what's been done and how, and  
24    you're going to need to make an assessment about  
25    reasonableness. So if they've act unreasonably, I

1 think -- I think you need to come back to me on  
2 sanctions. And I think we need to do it a little  
3 bit separately from the actual merits of the  
4 problem.

5 So I consider the request open, and it  
6 needs to be supplemented with more information.

7 MS. MARQUEZ: Okay. Understood, Your  
8 Honor. I will flag that, you know, this motion only  
9 became such because there was hesitance to provide  
10 even some of the most basic files, even when  
11 presented to defendants as deficient. But I will  
12 circle back to the Court once we've had this meeting  
13 with the NYPD.

14 THE COURT: Okay. Yeah. I mean, I just --  
15 I don't know why the defendants would not be  
16 interested in being as completely open as possible.

17 MR. HIRAOKA: Your Honor, just for the  
18 record, with respect to the four files that is the  
19 subject of this meet -- that's the subject of this  
20 conference, you know, the City never refused to  
21 provide them, and, in fact, they already have been  
22 provided. I just want to throw that out there.

23 THE COURT: Okay. That's not what I was  
24 talking about specifically, but all right.

25 Let me just read this again and make sure

1     that there's no problems. Defendants shall  
2     immediately run a search through their IAB database  
3     for all individuals scheduled to be deposed as of  
4     today and shall produce all IAB files that involve  
5     incidents occurring during protests arising from the  
6     Amended Schedule A. All investigative files  
7     including all documents in IAB's possession with  
8     regard to that investigation, shall be produced, of  
9     course. It should be produced at least one week  
10    before the date of deposition -- scheduled  
11    deposition -- I'll just say deposition. With  
12    respect to Sergeant Saturnin and Lieutenant  
13    Conforti, parenthesis, if he is a Rule 30(b)(1)  
14    witness, the file shall be produced by Friday, April  
15    21, 2023.

16           Two, defendant shall arrange for a meeting  
17    between plaintiffs' counsel and an individual with  
18    personal knowledge and experience in using databases  
19    to search for IAB records on Friday, April 21, 2023.

20           The plaintiff shall provide a listing of  
21    ten IAB log numbers -- hold on -- the defendant --  
22    to defendants. Defendants shall determine whether  
23    all documents have been produced as to those log  
24    numbers, and if not, shall provide a full production  
25    within five business days of when defendant is given

1 the log numbers.

2 On the same date the defendant shall  
3 provide a sworn statement to plaintiffs --  
4 defendants, I should say, shall provide a sworn  
5 statement to plaintiffs, as to how long takes to  
6 make that determination and produce missing  
7 materials, if any. Parties may extend or change  
8 these dates by mutual agreements in writing.

9 Okay. Anything else, Ms. Marquez?

10 MS. MARQUEZ: I'm sorry, Your Honor. I  
11 think I may have missed how you described the person  
12 with knowledge. Is it knowledge about the system  
13 capabilities, the search?

14 THE COURT: Here's what I said. An  
15 individual with personal knowledge, experience in  
16 using databases to search for IAB records.

17 MS. MARQUEZ: Okay.

18 THE COURT: Do you think that does it?

19 MS. MARQUEZ: I think that does it, yes.

20 So --

21 MS. NELSON: Your Honor, it's Chief  
22 Conforti.

23 THE COURT: Oh, I said -- I'm sorry. I  
24 said, Lieutenant. Sorry, chief.

25 Anything else, Ms. Marquez? You said no,

1 right?

2 MS. MARQUEZ: I guess that's fine. I was  
3 just trying to think if using was sufficient. But  
4 as long as they know how to search the database.

5 THE COURT: Do you have a better word?

6 MS. MARQUEZ: Search.

7 THE COURT: Using and including searching.

8 MS. MARQUEZ: Okay. Thank you. Apologies.

9 THE COURT: Okay. All right. Anything  
10 else from defendant side?

11 MR. HIRAOKA: Not at this time, Your Honor.  
12 If there's an issue, of course --

13 THE COURT: Okay.

14 MR. HIRAOKA: -- we'll let you know.

15 THE COURT: I'm sure you will.

16 MR. HIRAOKA: Yes.

17 THE COURT: Okay. Thank you, everyone.

18 MR. HIRAOKA: All right. Thank you.

19 THE COURT: Goodbye.

20 MR. HIRAOKA: Bye-bye.

21 MS. FITZPATRICK: Thank you. Bye.  
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C E R T I F I C A T E

I, Marissa Mignano, certify that the foregoing transcript of proceedings in the case of IN RE NEW YORK POLICING DURING SUMMER 2020 DEMONSTRATIONS, Docket #20-CV-08924, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Marissa Mignano  
Marissa Mignano

Date: April 25, 2023